

STATE OF NORTH CAROLINA
JUDICIAL DISTRICT 29B

FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

2022 JUL 26 A 10: 02

HENDERSON CO., C.S.C.

BY *Dr*
The responsibility for establishing continuance policies lies with the Senior Resident Superior Court Judge for Superior Court matters, and the Chief District Court Judge for all District Court matters. Those judges shall promulgate and implement written policies, as local rules, designed to reduce delay and insure fairness.

North Carolina Supreme Court
May 1, 1996
Case Flow Management Plan

SUPERIOR COURT CONTINUANCE POLICY

JUDICIAL DISTRICT 29B

HENDERSON, POLK, TRANSYLVANIA COUNTIES

It is the policy of this Court to provide justice for citizens without unnecessary delay and without undue waste of the time and other resources of the Court, the litigants, and other case participants. For all case types and dockets, and in all courtrooms, the Court looks with strong disfavor on motions or requests to continue court events. In order to protect the credibility of scheduled trial dates, trial-date continuances are especially disfavored.

In compliance with the directive of our Supreme Court, and in furtherance of the common goal of all members of the State Bar, judges and Clerks of Court to provide fair and timely resolution of all civil and criminal entanglements and disputes,

IT IS ORDERED that:

1. Except in unusual circumstances, any continuance motion or request shall be in writing, and filed not later than fourteen days before the court event for which rescheduling is requested.

The movant shall provide a copy of the filed motion to all other counsel or *pro se* parties. It shall be the responsibility of the movant to have the motion to continue heard or resolved by entry of order promptly, and in advance of the term of court for which rescheduling

is requested. In civil proceedings, the movant shall also promptly provide a copy of the motion to the Trial Court Coordinator.

Whenever possible, continuance motions or requests shall be made using the appropriate forms issued by the North Carolina Administrative Office of the Courts, which include:

- a. AOC-CV-221 for motions to continue civil superior cases; and
- b. AOC-CR-410 for motions to continue criminal superior cases.

2. Any attorney or party requesting a continuance shall state the reasons for the request as part of the written motion.

3. Continuance requests are presumptively disfavored. However, when compelling reasons for continuance are presented which would affect the fundamental fairness of the trial process or when a continuance clearly is in the interest of justice, a continuance may be granted in the exercise of judicial discretion to further the best interest of the administration of justice. Continuances on agreement of counsel or the parties shall **not** be automatically granted. Other grounds for which continuance of a hearing or trial shall **not** be sufficient include:

- a. first-time scheduling of a case for trial;
- b. potential conflicting schedules of other trials in other courts;
- c. failure to complete discovery in civil cases;
- d. whether counsel has been paid;
- e. personal vacation of parties or counsel not provided for by secured leave status.

4. The Court shall grant a continuance only for good cause shown unless otherwise provided by law.

5. For civil actions appearing on a trial calendar pursuant to Scheduling Order filed in the action, continuances are specifically disfavored and shall be granted only in extraordinary circumstances, or when required by law.

6. Any grant of a continuance motion or request by the Court shall be made on the record, with an indication of who requested it and the reasons for granting it. Information about the source of each continuance motion and the reason for any continuance granted by the Court shall be noted in the Court's file, on a form prepared for this purpose.


7. Whenever possible, the Court shall hold the rescheduled court event not later than the next available term of court for civil or criminal proceedings, as appropriate, or (as regards criminal proceedings) as otherwise in accordance with the case docketing plan adopted from time to time by the District Attorney.

8. To the extent that this order conflicts with any statutory provision applicable to a particular continuance motion or request, the statutory provision will control.

9. At least quarterly, the Senior Resident Superior Court Judge shall review a current report of pending cases and any data the Administrative Office of the Courts can make available regarding the number of court settings for each case. To promote the consistent application of this continuance policy, these reports should be reviewed and discussed with all other judges in the district, bar representatives and other court-related agencies to seek resolution of any organizational or systemic problems that cause unnecessary delay in the timely resolution of all cases.

10. This order is adopted as a Local Rule for Continuances in the Superior Court of this district, and shall be published on the Administrative Office of the Courts local rules website. While parties or their counsel are charged with knowing and following all published Local Rules regardless of personal receipt, a copy of this Order shall be distributed to the District Attorney, and the Chief Public Defender and to members of the criminal trial bar. Effort shall be made to distribute a copy of this order to parties or counsel in civil actions as matters appear on trial and motions calendars, with the assistance of the Trial Court Coordinator.

Entered this July 25, 2022.



PETER KNIGHT
Senior Resident Judge

Note: State law specifies the factors that judges must consider when ruling on pretrial continuance requests in criminal cases. G.S. 15A-952(g). State law entitles defendants in criminal cases to continuances in certain situations without any showing of good cause. E.g., G.S. 15A-1023(b) (defendant must be granted continuance upon judge's rejection of plea arrangement); 15A-1024 (defendant is entitled to continuance upon withdrawal of plea following judge's determination to impose sentence other than as provided for in plea arrangement). There is at least one circumstance in which state law entitles the state to a continuance. G.S. 15A-1415(g) (court must grant state's request for 30-day continuance made in response to defendant's amendment to motion for appropriate relief).